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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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APR 30 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
) CC Docket 95-116
Telephone Number Portability)
Phase III Implementation.)

PETITION FOR WAIVER

The Sprint Local Telephone Companies hereby request a waiver, pursuant to Section 1.3 of the Commission's rules,¹ of the requirement to provide local number portability in certain of its offices the Kansas City MSA by June 30, 1998. The specific offices impacted by this request are listed in Attachment A, appended hereto. The relief sought here is identical to that previously granted by the Commission in a recent case.²

In its First Report and Order (as later modified),³ the Commission set forth the schedule for deployment of long-term number portability ("LNP"). As a result of that Order, Phase III implementation – which includes the Kansas City MSA – is to be completed no later than June 30, 1998. The Commission also directed those companies not able to meet the June 30th deadline to file a waiver request no later than sixty days prior to the implementation deadline.

¹ 47 C.F.R. Section 1.3.

² See, In the Matter of Telephone Number Portability, Order, CC Docket No. 95-116, NSD File No. L-98-53, released April 16, 1998. For the Commission's convenience, a copy is attached hereto (Attachment B).

³ In the Matter of Telephone Number Portability, First Report and Order and Further Notice of Proposed Rulemaking, CC Docket 95-116, released June 26, 1996.

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Sprint finds it is necessary to request a waiver for certain offices in the Kansas City MSA. Sprint asserts that, its systems are in place and it is fully prepared to implement LNP in compliance with the Commission's schedule. However, Southwestern Bell has determined that it will not be able to meet the June 30th deployment deadline. In a waiver request filed with the Commission on February 20, 1998, Southwestern Bell explained that it requires a delay due to defects found in connection with the Signal Transfer Point ("STP") upgrades needed for local number portability. The company states that it is in the process of getting new software from its vendor but will require time to test that software to ensure network reliability. Southwestern Bell expects to be in a position to deploy LNP to the Kansas City MSA by July 27, 1998.

Due to the technical problems being experienced by Southwestern Bell, Sprint finds itself in the position of requiring a waiver of the June 30th implementation date for certain of its offices as well. Sprint relies on Southwestern Bell for the provision of operator and directory assistance services to its customers. One of the essential functions performed by Southwestern Bell as a part of these services is LIDB validation. Sprint understands that Southwestern Bell's inability to load the LRN software used for LNP will result in its inability to provide LIDB validation services on ported calls into and out of Sprint's exchanges. The failure of Southwestern Bell to perform that validation function will expose Sprint to fraudulent third party and collect calls. Until such

time as Southwestern Bell can properly validate those calls, Sprint should not be forced to expose itself and its customers to such fraudulent activities. Sprint, therefore, requests that it not be required to deploy its LNP service in the offices listed in Attachment A until Southwestern Bell is ready to do so.

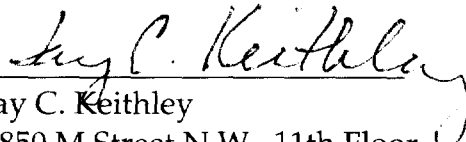
Section 1.3 of the Commission's rules states that the Commission may waive any provision of its rules if good cause is shown. Good cause is shown through the existence of special circumstances that warrant deviation from the general rule and such deviation will serve the public interest. Sprint submits that special circumstances exist in this instance. Factors outside of Sprint's control, specifically the failure of Southwestern Bell's STP software to perform as necessary, will cause that company to delay its LNP deployment which will, in turn, negatively effect Sprint's ability to meet the June 30th deployment deadline. Southwestern Bell's software problem is the sole reason for Sprint's inability to comply with the Commission's LNP implementation schedule. Because Sprint is otherwise prepared to deploy LNP, the public interest will be served, even with the grant of this waiver request, since it will introduce LNP to these offices immediately once Southwestern Bell's technical problems are cured. As noted above, the Commission has previously granted Sprint a waiver under identical circumstances.

CONCLUSION

Based on the foregoing reasons, Sprint respectfully requests that, to the extent the Commission grants the waiver requested by Southwestern Bell for deployment of LNP in the Kansas City MSA until July 27, 1998, it grant, as it has previously done, a like waiver to Sprint for the offices listed in Attachment A.

Respectfully submitted,

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April 30, 1998

ATTACHMENT A
Sprint Impacted Offices

| <u>Office</u> | <u>CLLI Code</u> |
|---------------|------------------|
| Gardner | GRNRKSXADC0 |
| Edgerton | EGTNKSXADS0 |
| Spring Hill | SPHLKSXADS0 |
| Linwood | LNWDKSXARS0 |
| Easton | ESTNKSXA773 |
| Ferrel View | FLVWMOXADS0 |
| Holt | HOLTMOXA264 |
| Kearney | KRNYMOXADS1 |
| Platte City | PLCYMOXARS0 |
| Weston | WSTNMOXARS0 |

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Federal Communications Commission

DA 98-729

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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|--|---|----------------------|
| In the Matter of |) | |
| |) | |
| Telephone Number Portability |) | CC Docket No. 95-116 |
| |) | |
| Petition for Extension of the Deployment |) | |
| Schedule for Long-Term Database |) | |
| Methods for Local Number Portability, |) | |
| Phase I |) | |
| |) | |
| Sprint Local Telephone Companies |) | NSD File No. L-98-53 |
| |) | |

ORDER

Adopted: April 16, 1998

Released: April 16, 1998

By the Deputy Chief, Network Services Division:

I. INTRODUCTION

1. This *Order* addresses a petition of the Sprint Local Telephone Companies (Sprint), which requests an extension of the Commission's Local Number Portability (LNP) Deployment Schedule.¹ Sprint requests that it not be required to provide its LNP service until Southwestern Bell (SBC) is ready to do so in the Houston Metropolitan Statistical Area (MSA).² For the reasons discussed below, Sprint's petition is granted. In addition, we waive the requirement that Sprint file its petition 60 days prior to the March 31, 1998, LNP Phase I implementation deadline.

¹ Sprint's Petition for Waiver was filed on March 3, 1998 (Petition).

² In an order dated March 31, 1998, the Common Carrier Bureau granted SBC an extension of the Phase I implementation deadline for the Houston MSA until May 26, 1998. Petition for Extension of the Deployment Schedule for Long-Term Database Methods for Local Number Portability, Southwestern Bell Telephone Company and Pacific Bell, *Order*, CC Docket 95-116, NSD File No. L-98-16, DA 98-613 (rel. March 31, 1998) (*SBC Waiver Order*).

II. PETITION

2. In its Petition, Sprint states that its LNP functions depend on SBC's ability to provide LNP. More specifically, Sprint states that it relies on SBC for the provision of operator and directory assistance services for its Houston customers which includes line information database (LIDB) validation.³ According to Sprint, SBC's inability to implement LNP in Houston will result in its inability to provide LIDB validation services on ported calls into and out of Sprint's exchanges.⁴ Sprint claims that without this ability, it could be exposed to fraudulent third-party and collect calls.⁵

3. Accordingly, Sprint has requested an extension of time to implement LNP in the Houston MSA until SBC is ready to do so. SBC has stated that it expects to implement LNP in the Houston MSA on May 26, 1998.⁶ A brief discussion of number portability appears in the *SBC Waiver Order*.⁷

III. DISCUSSION

4. As a threshold matter, we consider whether circumstances warrant a waiver of the requirement contained in section 52.23(e) of the Commission's rules that petitions for LNP implementation deadlines be filed at least 60 days prior to the deadline. Under section 1.3 of the Commission's rules, waivers may be granted "if good cause therefor is shown."⁸ The U.S. Court of Appeals for the District of Columbia Circuit concluded that a waiver may be granted if "special circumstances warrant a deviation from the general rule and such a deviation will serve the public interest."⁹ We find that the circumstances presented here satisfy the "good cause" requirement and that waiver of the 60-day requirement is warranted. Sprint did not learn of SBC's inability to meet the LNP deadline until after the 60-day deadline for filing

³ Petition at 2.

⁴ *Id.*

⁵ *Id.*

⁶ *SBC Waiver Order* at para. 6.

⁷ *Id.* at paras. 2-4.

⁸ 47 C.F.R. § 1.3.

⁹ *Northeast Cellular Telephone Co., L.P. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990), citing *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), cert. denied, 409 U.S. 1027 (1972); *Industrial Broadcasting, Co. v. FCC*, 437 F.2d 680, 683 (D.C. Cir. 1970).

Phase I extensions, which was January 29, 1998.¹⁰ We believe Sprint acted reasonably in filing its petition shortly after it learned of SBC's petition. Further, we find that the public interest in ensuring the proper functioning of Sprint's network will be served by granting a waiver of the 60-day advance notice requirement.

5. With respect to the petition for extension of time of the Phase I implementation date, we note that in the *First Report and Order* in this proceeding the Commission specifically contemplated that waivers of the number portability implementation deadlines may be needed, delegating to the Chief of the Common Carrier Bureau the authority to waive or stay any of the dates in the implementation schedule "as the Chief determines is necessary to ensure the efficient development of number portability, for a period not to exceed 9 months."¹¹ The Commission's rules set forth the showing that carriers seeking relief must make, and prescribe that the showing must be supported by substantial, credible evidence.¹²

6. We find that Sprint has made the requisite showing under section 52.23(e) for its request for relief from an implementation deadline. Sprint's petition for extension of time (1) documents that the reason why Sprint is unable to meet the March 31, 1998, deadline is that it cannot implement LNP without a risk of fraudulent activity absent SBC's successful implementation of LNP; (2) explains that Sprint's systems are in place and it is fully prepared to implement LNP in Houston, but for SBC's inability to do so until May 26, 1998; (3) identifies, in an attachment to its Petition, the switches for which the extension is requested;¹³ (4) states that it will complete deployment of LNP in the affected switches once SBC's technical problems are cured; and (5) proposes a new deadline, May 26, 1998, for completing implementation of LNP in Houston.

IV. CONCLUSION

7. Having determined that Sprint has met the section 52.23(e) standards, that the circumstances presented warrant a deviation from the timetable set forth in the Appendix to Part 52, and that the public interest will be served by granting Sprint additional time to complete Phase I of the implementation of local number portability in the Houston MSA, we find that good cause exists to extend the section 52.23 timetable as requested by the Sprint.

¹⁰ SBC did not file a petition to extend the Phase I deadline for the Houston MSA until February 20, 1998.

¹¹ Telephone Number Portability, *First Report and Order and Further Notice of Proposed Rulemaking*, FCC 96-286, CC Docket 95-116, 11 FCC Rcd 8352, 8397 (1996). See also 47 C.F.R. § 52.23(d).

¹² See 47 C.F.R. § 52.23(e).


¹³ Petition, Attachment A, "LNP Switch List."

On the facts presented, we also find that good cause exists for waiver of the 60-day requirement contained in section 52.23(e).

V. ORDERING CLAUSE

8. IT IS THEREFORE ORDERED, pursuant to sections 1.3 and 52.23(e) of the Commission's rules, 47 C.F.R. §§ 1.3 and 52.23(e), and by authority delegated in sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91 and 0.291, that Sprint's Petition for Waiver is GRANTED, thereby extending the date for Sprint's Phase I implementation of LNP in the Houston MSA to May 26, 1998.

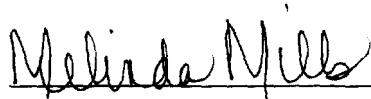
FEDERAL COMMUNICATIONS COMMISSION



Kent R. Nilsson
Deputy Chief, Network Services Division
Common Carrier Bureau

CERTIFICATE OF SERVICE

I, Melinda L. Mills, hereby certify that I have on this 30th day of April 1998, served via U.S. First Class Mail, postage prepaid, or Hand Delivery, a copy of the foregoing "Petition for Waiver" (Kansas City MSA) of Sprint Local Telephone Companies in the Matter of Telephone Number Portability Phase III Implementation, filed this date with the Secretary, Federal Communications Commission, to the persons on the attached service list.



Melinda L. Mills

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